BORA LASKIN LAW LIBRARY
3 1761 03344 8937

FEMINIST PERSPECTIVES ON LAW

FALL 1998

Wendy Adams
Brenda Cossman
Jenny Nedelsky
Denise Réaume
Carol Rogerson
Martha Shaffer
Catherine Valcke
Lorraine Weinrib

FOR THE CLASSROOM USE OF
UNIVERSITY OF TORONTO
STUDENTS ONLY

NOV 10 1998
UNIVERSITY OF TORONTO

BORA LASKIN LAW LIBRARY
UNIVERSITY OF TORONTO

FEMINIST PERSPECTIVES ON LAW

FALL 1998

Wendy Adams
Brenda Cossman
Jenny Nedelsky
Denise Réaume
Carol Rogerson
Martha Shaffer
Catherine Valcke
Lorraine Weinrib

FOR THE CLASSROOM USE OF
UNIVERSITY OF TORONTO
STUDENTS ONLY

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/feministperspect00adam

FEMINIST PERSPECTIVES ON LAW

Fall 1998

TABLE OF CONTENTS

INTRODUCTION TO WOMEN'S POSITION IN LAW AND SOCIETY

T. Brettel Dawson, ed., *Relating to Law: A Chronology of Women and Law in Canada* 1

Kate Kempton, "Paint by Number: A statistical portrait of women in Canada" 11

MONDAY AFTERNOON

THE CENTRALITY OF CONSENT AND CHOICE IN LAW AND POLITICAL THEORY
(Professor Nedelsky)

Carole Pateman, *The Disorder of Women* 17

Virginia Held, "Non-contractual Society: A Feminist View" 18

Margaret Jane Radin, "Market Inalienability" 32

Jennifer Nedelsky, "Property in Protential Life? A Relational Approach to Choosing Legal Categories" 40

Patricia Williams, *The Alchemy of Race and Rights* 41

Jennifer Nedelsky, "Reconceiving Autonomy: Sources, Thoughts and Possibilities" 43

FEMINIST PERSPECTIVES ON LAW: OVERVIEW OF THEMES
(Professor Réaume)

Denise G. Réaume, "What's Distinctive About Feminist Analysis Of Law?: A Conceptual Analysis Of Women's Exclusion From Law" 47

Audre Lorde, *Sister Outsider* 69

Mari J. Matsuda, "When the First Quail Calls: Multiple Consciousness as Jurisprudential Method" 74

TUESDAY MORNING

CHOICE AND CONSENT IN DOMESTIC CONTRACTS
(Professors Rogerson and Valcke)

Note on Domestic Contracts 78

Balfour v. Balfour, [1919] 2 KB 571 (CA) 79

Robert Mnookin, "Divorce Bargaining: The Limits on Private Ordering" 80

Michael J. Trebilcock and Rosemin Keshvani, "The Role of Private Ordering in Family Law: A Law and Economics Perspective" 81

Pelech v. Pelech (1987), 7 R.F.L. (3d) 225 (S.C.C.) 83

Richardson v. Richardson (1987), 7 R.F.L. (3d) 304 (S.C.C.) 94

Lindsay v. Lindsay (1989), 21 R.F.L. (3d) (Man. Q.B.) 101

Rosen v. Rosen (1994), 3 R.F.L. (4th) 270 (Ont. C.A.) 106

Robert Mnookin, "Divorce Bargaining: The Limits on Private Ordering" 109

Diana Majury, "Unconscionability in an Equality Context" 111

Larocque v. Larocque (1998), 36 R.F.L. (4th) 73 113

TUESDAY AFTERNOON

SEXUAL ORIENTATION DISCRIMINATION AS SEX DISCRIMINATION
(Wendy Adams)

Adrienne Rich, "Compulsory Heterosexuality and Lesbian Experience" from *Blood, Bread & Poetry: Selected Prose 1979-1985* (1986) 120

Catharine MacKinnon, "Sex Equality: On Difference and Dominance" from *Towards a Feminist Theory of State* (1989) 125

Cass Sunstein, "Homosexuality and the Constitution" (1994) 70 Ind. L.J. 1 . . . 129

Egan v. Canada, [1995] 2 S.C.R. 513 137

Baehr v. Lewin (1993), 852 P. 2d 44 (Hawaii) 161

"Anti-Hate Law Urged After Gay Man Dies"
The Globe and Mail (13 October 1998) A 14 183

"Homophobia Often Found in Schools" The New York Times
(14 October 1998) A19 184

"Pink Triangle Services Debates Adding Transgendered to its Mission"
XTRA! (16 October 1998) 14 186

WEDNESDAY MORNING

SEXUAL ASSAULT AND THE LEGAL CONSTRUCTION OF CONSENT
(Professor Shaffer)

R. v. Pappajohn (1980), 52 C.C.C. (2d) 481 (S.C.C.) 187

Toni Pickard, "Culpable Mistakes and Rape: Relating Mens Reason
to the Crime" (1980), 30 U. of T. L.J. 75 196

R. v. Sansregret (1985), 18 C.C.C. (3d) 223 199

Don Stuart, "The Pendulum Has Been Pushed too Far" 202

Patricia Hughes, "From a Woman's Point of View" 203

R. v. Ewanchuk (1998), 13 C.R. (5th) 324 (Alta. C.A.) 207

WEDNESDAY AFTERNOON

REGULATING PREGNANCY: *D.F.G.* and *Dobson*
(Professors Nedelsky, Réaume, Shaffer and L. Weinrib)

RE M.B. [1997] E.W.J. 632 (Eng. C.A.) 234

Winnipeg Child and Family Services v. D.F.G.
(1996), 138 D.L.R. (4th) 238 (Man. Q.B.) 235

Winnipeg Child and Family Services v. D.F.G. [1997] 3 S.C.R. 925 240

Dawn Johnsen, "The Creation of Fetal Rights: Conflicts with Women's Constitutional
Rights to Liberty, Privacy and Equal Protection" (1986) 95 Yale L.J. 599 267

Susan Sherwin, "A Relational Approach to Autonomy in Health Care" from
the Feminist Health Care Ethics Research Network,
The Politics of Women's Health (1998) 270

Dobson v. Dobson (1997), 148 D.L.R. (4th) 332 (N.B.C.A.) 278

Factum of CARAL in *Dobson v. Dobson* 281

THURSDAY MORNING

REGULATING SEX: PORNOGRAPHY
(Professor Brenda Cossman)

Brenda Cossman, Shannon Bell, "Introduction", in Cossman, Bell, Lise Gotell, and Becki Ross, *Bad Attitude/s on Trial: Pornography, Feminism, and the Butler Decision* 301

Karen Busby, "LEAF and Pornography: Litigating and Equality and Sexual Representations" 325

PLENARY (NO READING)